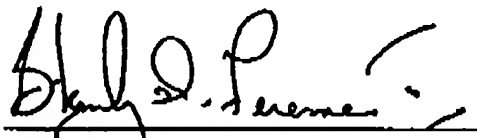
Claims 15-18, drawn to an integrated circuit including an array of magnetic memory cells (Group III), are each directed to distinct inventions. The Examiner has required Applicant to elect one group of claims for prosecution.

The asserted bases for the restriction requirement including the following: "Inventions I and III are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product, and the species are patentably distinct. In the instant case, the intermediate product is deemed to be useful as a magnetically lined conductor for a wide variety of integrated circuits other than the arrays of memory devices and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants." The Examiner later states that "Inventions II and (I and III) are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process. In the instant case the process as claimed can be used to make other and materially different product. This is evidenced in the fact that two patentably distinct products are claimed (see above).". Applicant respectfully traverses the restriction requirement. Accordingly, Applicant respectfully requests the restriction requirement be withdrawn and all claims be examined at this time. In the event the restriction requirement is not withdrawn, Applicant provisionally elects the claims of Group I (e.g., Claims 1-9).

Applicant, however, also asserts that even if the restriction requirement is not withdrawn, the claims of Groups I, II and III should be examined at the same time under MPEP § 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions"). The Office asserts that as the inventions of Groups I, II and III "have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper." Different classifications, however, do not mean both classes would not be searched. See MPEP § 904.02(a) ("In outlining a field of search, the examiner should note every class and subclass under the U.S. Patent Classification system and other organized systems of literature that may have material pertinent to the subject matter as claimed. Every subclass, digest, and cross-reference art collection pertinent to each type of invention claimed should be included, from the largest combination through the various subcombinations to the most elementary part. The field of search should extend to all probable areas relevant to the claimed subject matter and should cover the disclosed features which might reasonably be expected to be claimed.") In this regard, the Office's attention is directed to two of numerous similar U.S. Patents, Patent No. 6,858,909 which issued on February 22, 2005 and is assigned to the assignee of the present invention (International Business Machines Corporation), and U.S. Patent No. 6,600,202 which issued on July 29, 2003 and is assigned to Wolff Controls Corporation. These recently issued U.S. Patents were searched in multiple classes and classified in multiple classes; in fact, the multiple classes for searching and classification include the three class/subclasses identified in the outstanding Restriction Requirement. In view of this

past Office practice, there can be no credible assertion there would be a serious burden in searching and examining the claims of Groups I, II and III in the same application.

Respectfully submitted,



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